

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: Yukio SAWAKIRI

Art Unit: 3676

Application No.: 10/032,326

Conf. No. 4583

Examiner: Carlos Lugo

Filed: December 31, 2001

Washington, D.C.

For: REINFORCED VEHICLE DOOR LATCH STRIKER

Atty.'s Docket: SAWAJIRI=2

Date: July 28, 2006



Customer Service Window
Randolph Building, Mail Stop **APPEAL BRIEF**
401 Dulany Street
Alexandria, VA 22314

Sir:

Transmitted herewith is a ☐ Amendment ☒ **APPEAL BRIEF** in the above-identified application.

☐ Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.

☐ No additional fee is required.

☒ The fee has been calculated as shown below:

☒ Appeal Brief fee (large entity) **\$500.00**

	(Col. 1)		(Col. 2)	(Col. 3)
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS
TOTAL	10	MINUS	** 20	0
INDEP.	1	MINUS	*** 3	0
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				

ADDITIONAL FEE TOTAL

SMALL ENTITY	
RATE	ADDITIONAL FEE
x 25	\$
x 100	\$
+ 180	\$
ADDITIONAL FEE TOTAL	
\$	

OTHER THAN SMALL ENTITY	
RATE	ADDITIONAL FEE
x 50	\$
x 200	\$
+ 360	\$
TOTAL	
\$	

OR

OR

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

☒ Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

☒ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

☐ First - \$ 60.00

☐ Second - \$ 225.00

☐ Third - \$ 510.00

☐ Fourth - \$ 795.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

☒ First - \$ 120.00

☐ Second - \$ 450.00

☐ Third - \$ 1020.00

☐ Fourth - \$ 1590.00

Month After Time Period Set

☐ Less fees (\$) already paid for month(s) extension of time on

☐ Please charge my Deposit Account No. 02-4035 in the amount of \$

☒ Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of **\$620.00**

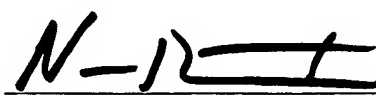
☐ A check in the amount of \$ is attached (check no.).

☒ The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK, P.L.L.C.

Attorneys for Applicant(s)

Facsimile: (202) 737-3528
Telephone: (202) 628-5197

By: 
Norman J. Latker
Registration No. 19,963



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Yukio SAWAJIRI et al.

Application No. 10/032,326

Filed: December 31, 2001

REINFORCED VEHICLE DOOR LATCH STRIKER

Examiner: Carlos Lugo

Art Unit: 3676

APPEAL BRIEF

Norman J. Latker
Reg. No. 19,963
Attorney for Appellants

BROWDY AND NEIMARK, P.L.L.C.
624 Ninth Street, N.W.
Washington, D.C. 20001
Phone: 202-628-5197
Fax: 202-737-3528
Email: mail@browdyneimark.com

Attorney Docket: SAWAJIRI=2

Date: July 28, 2006

07/31/2006 JADD01 00000017 10032326

01 FC:1402
02 FC:1251

500.00 OP
120.00 OP



TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
REAL PARTY IN INTEREST	1
RELATED APPEALS AND INTERFERENCES	2
STATUS OF CLAIMS	3
STATUS OF AMENDMENTS	4
SUMMARY OF CLAIMED SUBJECT MATTER	5
GROUND OF REJECTION TO BE REVIEWED ON APPEAL	8
ARGUMENT	9
CONCLUSION	13
CLAIMS APPENDIX	14
EVIDENCE APPENDIX	18
RELATED PROCEEDINGS APPENDIX	19

TABLE OF AUTHORITIES

Statutes

35 U.S.C. §103(a)	8, 9, 14
-------------------------	----------

In re Application No. 10/032,326



REAL PARTY IN INTEREST

The subject application is owned by Mitsui Kinzoku Kogyo Kabushiki Kaisha, having a place of business on 11-1, Ohsaki 1-chome, Shinagawa-ku, Tokyo, Japan. The assignment was recorded in the U.S. Patent and Trademark Office on April 1, 2002 under reel 012974, frame 0532.

In re Application No. 10/032,326

RELATED APPEALS AND INTERFERENCES

None.

STATUS OF CLAIMS

This application contains claims 1-10, all of which were finally rejected in an Official Action dated June 28, 2006.

On April 28, 2006, Appellant appealed from the rejection of claims 1-10 representing all the claims currently under examination in this application.

STATUS OF AMENDMENTS

No amendments have been filed subsequent to the January 28, 2006 final Office Action.¹

¹ Applicant has noted the Examiner's objection to the drawings under 37 C.F.R. 1.83(a) and agrees to amend the drawings to show the missing longitudinal axes upon grant of the appeal.

SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 is directed to the door latch device shown in Figs. 1-4 having a striker 10 and a latch 18 which engages the striker so as to keep a vehicle door closed. The striker 10 comprises a metal base 11 and a U-shaped engaging member 12 fixed to the base. In conventional strikers, the diameter of its U-shaped engaging member is generally about 7mm. A rod thinner than that of 7mm. would provide the conventional striker with an insufficient strength for continuous engagement with a corresponding latch and a rod thicker from end to end would require that a corresponding latch be also larger in size so as to accommodate a recess large enough to engage the enlarged U-shaped engaging member. Thus, in a situation where a rod larger than 7mm. may be desirable to accommodate rough use, it is clear that the increased weight and size of both the striker and latch would also require a larger housing for the door latch device designed to include such striker and latch in addition to an increased weight on the vehicle (see the Description of the Related Art on page 1 of the specification).

The striker 10 and latch 18 set out in independent claim 1 has been designed as an improvement of conventional strikers so as to provide a strengthened striker to accommodate rough use but avoiding the above problems. The structure of the claimed striker shown in Figs. 1-4 and described on pages 2-4 of the specification comprises a striker 10 having a longitudinal plate metal base 11 fixed to

a vehicle body 9 and defining a longitudinal axis and a U-shaped metal engaging member 12. The engaging member includes a first leg part 15, a second leg part 16 parallel to the first leg part 15, and a front connecting part 17, which connects a front end of the first leg part 15 with a front end of the second leg part 16. The leg parts 15, 16 define longitudinal lengths and the front connecting part 17 defines a longitudinal axis. The longitudinal axis of the front connecting part 17 is perpendicular to the longitudinal axis of the metal base 11. The longitudinal lengths of the leg parts 15, 16 are perpendicular to the plane of the metal base 11. Each leg part 15, 16 has a rear end 24, 25 which projects on a rear side of the base 11 through mounting holes 26, 27 on the base 11 where the legs are engaged to the base 11. Front and rear caulking flanges 30, 31 have a larger diameter than the diameter of the mounting holes 26, 27 so as to engage a front and a rear side of the base respectively. The first leg part 15 has a latch engaging part 32, which is engageable with the claimed latch 18 of the vehicle door latch device.

The above structural features are conventional and are shown by U.S. Patent No. 6,155,618 to Ichinose cited as prior art by the Examiner. The claimed invention is an inventive improvement over Ichinose as it provides for a reinforced large diameter part 20 on a rear side portion of the front leg part 15 which has a diameter larger than that of the latch engaging part 32 on the front side portion of the first leg part between the front caulking flange 28 of the

In re Application No. 10/032,326

first leg part and the latch engaging part 15 on the front side portion. Further, the latch 18 shown in Fig. 4 is designed to have a recess 19 which is oriented on the latch to rotate in a plane spaced apart from the reinforced diameter part 20 so as to only engage the latch engaging part 32 on the front side portion of the first leg portion 15 as shown in Figs. 2-4.

In re Application No. 10/032,326

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The Examiner has rejected claims 1-10 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,155,618 to Ichinose in view of GB Patent No. 2,336,178 to Mark and U.S. Patent No. 6,042,160 to Hamada et al.

Appellant submits that this rejection should be reversed.

ARGUMENT

The Examiner's 35 U.S.C. §103(a) rejection of claims 1-10 as being unpatentable over Ichinose in view of Mark and further in view of Hamada fails to teach the primary inventive features set out in independent claim 1.

The Examiner maintains that it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the reinforcing large diameter part, shown on limbs 16, 20 of striker 22 of Mark, on the striker 1 of Ichinose, in order to give more strength to the Ichinose striker and to increase the durability of the striker, and further that Hamada teaches that it is well known in the art to have a latch member (14) that has a recess that engages a leg part of a striker 2. Therefore, as stated by the Examiner, it is obvious to have a latch with a recess that engages a striker leg part.

Even assuming that the Examiner's suggested prior art combination would be obvious (not admitted), the resulting structure still would not be equivalent to that claimed. There is no teaching whatever in the cited prior art combination (even if a rear side portion of the first leg 15A of Ichinose was modified to have a large diameter), that the latch of Hamada would engage the front side portion of the first leg above the rear side portion having the large diameter as claimed by Appellant rather than the rear side portion. Hamada teaches only a latch engaging a leg of a striker which is perpendicular to the base of the striker and

has the same diameter from end to end (see Fig. 11 of Hamada). Further, Mark teaches engagement of the latch only to engaging portion 22 and not either of its limbs 16, 20 or a specific part of the first leg as claimed by Appellant. None of the prior art of the cited combination teach a latch which engages a front side portion of a first leg part (the latch engaging part) in a plane of rotation spaced apart from a rear side portion (the reinforced large diameter part) as claimed.²

The limitation that the latch engages the front side portion rather than the rear side portion as claimed is critical to the result intended by the claimed invention. This limitation is intended to permit the use of a conventional size latch which would not require increasing the size of the housing of the door latch device involved or accommodating the increased weight of an enlarged latch. In comparison, if the latch was designed to engage the rear side portion of the first leg (the portion having a diameter larger than that of front side portion of the first leg), a larger latch with a larger recess for engaging the larger diameter of the rear side portion of the first leg would be required. This would result in the need for a larger housing for the door latch device and accommodation of the increase in weight.

Appellant further does not agree that it would be obvious to provide Ichinose with a reinforcing large diameter part in light of Mark, because the Mark striker is

² Appellant made this same argument in its September 16, 2005 response, but the Examiner failed to address it in his October 28, 2005 final Office Action.

dramatically different from that of Ichinose that the skilled artisan would not address for modification of a conventional striker such as that of Ichinose. Most important, is the fact that Mark teaches extending the large diameter parts on the limbs 16, 20 nearly to the junction with engaging portion 22 leaving no portion of limbs 16, 20 available for engagement of a latch as provided by Appellant. The portion of limbs 16, 20 above the large diameter parts are clearly not appropriate for engagement of a latch due to their length, location and inclination. Accordingly, increasing the diameter of the legs of Ichinose as taught by Mark does not in any way teach the claimed engaging part 32 above the large diameter part taught by Mark.

Mark further differs from the claimed invention as follows:

- (1) The first and second leg parts of Mark are not shown or taught to have the same shape as claimed by Appellant;
- (2) The first and second leg parts of Mark are not shown or taught to be perpendicular to the plane of its metal base;
- (3) The Mark latch engages bolt engaging portion 22 and not either limb 18 or 20 as taught by both Ichinose and Hamada; and

- (4) Limbs 18 and 20 of Mark are bent in relation to base 12 and there is nothing whatever in the language of Mark which teaches or suggests otherwise. While the Mark limbs could be made parallel and straight as indicated in Mark, they still would be set at an angle to base 12 as shown in the drawings.

Accordingly, Appellant does not agree that the combination of Ichinose and Mark would be obvious to the skilled artisan, especially in light of the indication in the last full paragraph of page 3 of Mark that the different features of Mark are intended to permit the making of strikers of complex shapes. The strikers resulting from the Examiner's suggested combination of references does not result in a "complex shape" similar to that shown in the Mark drawings. Clearly, the thickening of the limbs of Mark and the other features entailed by such thickening is limited to the costly manufacture of the specially shaped strikers identified in Mark. There is no teaching of combining these features with Ichinose and Hamada other than Appellant's disclosure which becomes apparent when recognizing that the Examiner's cited combination, does not teach the claimed relative location of the latch and striker as claimed.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the Examiner's rejection of claims 1-10 under 35 U.S.C. §103(a) as being unpatentable over Ichinose in view of mark further in view of Hamada is not supportable and should be reversed.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Appellant(s)

By


Norman J. Latker
Registration No. 19,963

NJL:ma

G:\BN\N\Niiz\Sawajiri2\PTO\2006-07-28 Appeal Brief.doc

CLAIMS APPENDIX

1. A striker of a vehicle door latch device including a latch engageable with the striker, comprising:

a longitudinal plate metal base which defines a longitudinal axis to be fixed to a vehicle body; and

a U-shaped metal engaging member including a first straight leg part, a second straight leg part which is in parallel with the first leg part, and a front connecting part which connects a front end of the first leg part and a front end of the second leg part, wherein each leg part defines a longitudinal length and the front connecting part defines a longitudinal axis;

the longitudinal axis of the front connecting part being perpendicular to the longitudinal axis of the metal base;

wherein the longitudinal length of both the first leg part and the second leg part are perpendicular to the plane of the metal base;

each of said first leg part and said second leg part having, at rear end thereof which projects on a rear side of the base through a mounting hole of the base, a rear caulking flange with a larger diameter than that of the mounting hole engaged with a rear surface of the base; and

a front caulking flange with a larger diameter than that of the mounting hole engaged on a front side of the base;

said first leg part having, at a front side portion thereof, a latch engaging part which is engageable with the latch on the vehicle door latch device having a recess which is oriented on the latch to engage the latch engaging part;

said first leg part having, at a rear side portion thereof, a reinforced large diameter part with a larger diameter than that of the latch engaging part between the front caulking flange of the first leg part and the latch engaging part, said reinforced large diameter part being spaced apart from a plane of rotation of the latch;

wherein a length of said reinforced large diameter part being 20% or more of the length of the first leg part.

2. The striker of a vehicle door latch device according to claim 1, wherein said second leg part has the same shape as said first leg part.

3. The striker of a vehicle door latch device according to claim 1, wherein said latch engaging part has the same diameter as said front connecting part.

4. The striker of a vehicle door latch device according to claim 2, wherein a tapered part is provided

between said reinforced large diameter part and said latch engaging part.

5. The striker of a vehicle door latch device according to claim 2, wherein the length of said reinforced large diameter part is 25% or more of the length of said first leg part.

6. The striker of a vehicle door latch device according to claim 2, wherein said latch engaging part has the same diameter as said front connecting part, and a tapered part is provided between said reinforced large diameter part and said latch engaging part.

7. The striker of a vehicle door latch device according to claim 6, wherein the length of said reinforced large diameter part is 25% or more of the length of said first leg part.

8. The striker of a vehicle door latch device according to claim 2, wherein the length of said reinforced large diameter part is 30% or more of the length of said first leg part.

9. The striker of a vehicle door latch device according to claim 1, wherein said reinforced large diameter

part has a length of twice or more the length of said rear caulking flange, in the longitudinal direction of said first leg part.

10. The striker of a vehicle door latch device according to claim 1 wherein said reinforced large diameter part has a length of triple or more the length of said rear caulking flange, in the longitudinal direction of said first leg part.

In re Application No. 10/032,326

EVIDENCE APPENDIX

Mikio ICHINOSE, U.S. Patent No. 6,155,618, December 5, 2000.

How Li MARK, UK Patent No. GB 2,336,178, October 13, 1999.

Yoshikazu HAMADA et al., U.S. Patent No. 6,042,160, March 28, 2000.

In re Application No. 10/032,326

RELATED PROCEEDINGS APPENDIX

None